

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

BRANDON MOCKBEE,)	
)	
Petitioner,)	
)	
v.)	No. 2:20-cv-00206-JRS-MJD
)	
BRANCHVILLE CORRECTIONAL FACILITY,)	
)	
Respondent.)	

**ORDER ON PETITIONER'S MOTION TO RESPOND TO JUDGMENT
AND TO RECONSIDER ORDER**

I. Background

Brandon Mockbee, an Indiana Department of Correction (IDOC) inmate, filed a petition for a writ of habeas corpus challenging a prison disciplinary proceeding, BTC 20-01-0110, under 28 U.S.C. § 2254. Dkt. 1. Mr. Mockbee was found guilty of violating IDOC Adult Disciplinary code B-213, threatening or intimidation. Dkt. 38-1. He was sanctioned with a 90-day loss of earned credit time and a credit class demotion. *Id.* On March 26, 2021, the IDOC Appeal Review Officer vacated the sanctions and designated the matter for rehearing. Dkt. 38-2. The Court granted the respondent's unopposed motion to dismiss on May 25, 2021, and this action was dismissed for lack of jurisdiction. Dkt. 45. Now before the Court is Mr. Mockbee's "motion to respond to judgment and to reconsider order." Dkt. 47. For the reasons explained in this Order, Mr. Mockbee's motion, dkt. [47], is **DENIED IN PART** and **GRANTED IN PART**.

II. Motion to Respond to Judgment and to Reconsider Order Dkt. [47]

It is unclear the specific relief that Mr. Mockbee seeks through his motion. Mr. Mockbee states that he was waiting "for the outcome on the conduct report to be held for rehearing." *Id.* He

further states that the disciplinary hearing board has not restored his good time credit or credit earning class. *Id.* But neither of these contentions warrant reopening this habeas action.

First, to the extent that Mr. Mockbee moves the Court to allow him to belatedly respond to the respondent's motion to dismiss, his motion is **DENIED**. Mr. Mockbee had ample time to submit a timely response, and the Court reminded him of this opportunity in its prior Entry on March 31, 2021. *See, e.g.*, dkt. 40 at 1.

Second, to the extent that Mr. Mockbee is asking the Court to reopen this action and issue a ruling on the merits of his petition, his motion is **DENIED**. Mr. Mockbee acknowledged that he was waiting for the outcome of the rehearing, and he has produced no documentation that such rehearing has been completed or of any result of the rehearing. But even if he had, the issues raised in Mr. Mockbee's petition in this action, concern the *original* proceeding. Any challenge to the rehearing must be specific to those proceedings, and the issues raised regarding a rehearing will be different than those raised in the original hearing. If Mr. Mockbee is deprived of credit time or demoted in credit-earning class as a result of the rehearing, he may file a new petition challenging any violations of his due process rights in that subsequent proceeding.

Third, Mr. Mockbee contends that the respondent "has not credited the 90 days nor has the [IDOC disciplinary hearing board] gave the time back for the credit class or upgraded Mr. Mockbee credit of good time that was taken[.]" Dkt. 47 at 2. It is not clear whether a rehearing has taken place, or if Mr. Mockbee received similar sanctions as implicated in this action, or if he received no sanctions at all. No matter what the outcome, Mr. Mockbee cannot raise any issues he has with his rehearing in this action. However, the Court will **GRANT** Mr. Mockbee's motion to the **LIMITED EXTENT** that **the respondent is directed to file documentation** that Mr. Mockbee's credit time and credit earning class have been vacated or restored. If Mr. Mockbee later

lost credit time or was demoted in credit earning class, either due to a rehearing in this matter or through a different disciplinary action, the respondent is directed to clarify those changes.

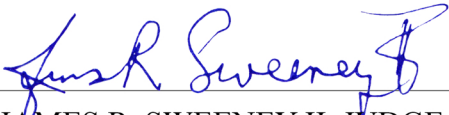
III. Conclusion

Accordingly, Mr. Mockbee's motion to respond to judgment and reconsider order, dkt. [47], is **DENIED IN PART and GRANTED IN PART** as outlined in Part II of this Order. This action remains closed.

Within 30 days of this Order, the respondent is directed to file documentation that Mr. Mockbee's credit time and credit earning class have been vacated or restored. If Mr. Mockbee later lost credit time or was demoted in credit earning class, either due to a rehearing in this matter or through a different disciplinary action, **the respondent is directed to clarify those changes.**

IT IS SO ORDERED.

Date: 2/3/2022



JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

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